

ARKANSAS COURT OF APPEALS  
NOT DESIGNATED FOR PUBLICATION  
LARRY D. VAUGHT, JUDGE

DIVISION IV

CA06-409

November 15, 2006

CANDI JONES

APPELLANT

APPEAL FROM THE SEBASTIAN  
COUNTY CIRCUIT COURT  
[JV-03-692]

V.

ARKANSAS DEP'T OF HEALTH &  
HUMAN SERVICES

APPELLEE

HON. MARK HEWETT,  
CIRCUIT JUDGE

AFFIRMED

This is an appeal from a termination of appellant Candi Jones's parental rights. She claims that there is insufficient evidence to support the trial court's order. Because the record does not support her claim, we affirm the decision of the trial court.

This case began on November 23, 2003, when A.J. was removed from Jones's care and taken into DHHS custody. Approximately two months later, on January 20, 2004, a second child, H.J., was removed from Jones's home. Then, on October 15, 2004, two more of her children, M.J. and A.E., were taken into DHHS custody. Both the record on appeal and the abstract contain only the testimony from the termination hearing.<sup>1</sup> Therefore, we are left

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<sup>1</sup> Although appellee argues that we should summarily affirm because appellant failed to include the prior hearing in the record, we decline to do so. Instead, we reach the merits based on the reasoning articulated in *Cobbs v. Ark. Dep't of Human Servs.*, 87 Ark.

to assume—based on the court’s findings supporting the termination order and Jones’s case plan—that the initial basis for removal was Jones’s inability to secure and maintain stable housing for her children.

The termination hearing was held on January 6, 2006, approximately two years from the time that the last of the four children were removed from the home. In its order the court found that despite meaningful efforts to rehabilitate Jones, she had failed to remedy the conditions that caused removal. The court found that the children had been out of the home from fourteen to twenty-five months and that Jones had failed to substantially comply with the terms of her case plan. Specifically, the court found that she had failed to remedy her main obstacles to reunification—stable, appropriate housing and income. The court noted that when the juveniles were taken into foster care Jones had no housing and that at the time of the termination hearing she had no housing. The court also noted that she had made no progress whatsoever toward finding stable housing and offered no proof that she was capable of doing so. The court also noted that she failed to pay child support as ordered, missed many counseling appointments, and failed to consistently take her medication as prescribed. Following the hearing, Jones’s rights were terminated by order on February 16, 2006. It is from this order that Jones appeals.

Our standard of review in termination-of-parental-rights cases is well-settled. When the issue is one involving the termination of parental rights, there is a heavy burden placed

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App. 188, 189 S.W.3d 487 (2004).

upon the party seeking to terminate the relationship. *Johnson v. Ark. Dep't of Human Servs.*, 78 Ark. App. 112, 119, 82 S.W.3d 183, 187 (2002). Although the termination of parental rights is an extreme remedy and in derogation of the natural rights of the parents, parents' rights will not be enforced to the detriment or destruction of the health and well-being of the child. *Id.* The facts warranting termination of parental rights must be proven by clear and convincing evidence, and in reviewing the trial court's evaluation of the evidence, we will not reverse unless the court's finding of clear and convincing evidence is clearly erroneous. *Id.* Clear and convincing evidence is that degree of proof that will produce in the fact finder a firm conviction regarding the allegation sought to be established. *Id.* In resolving the clearly erroneous questions, we must give due regard to the opportunity of the trial court to judge the credibility of witnesses. Additionally, we have noted that in matters involving the welfare of young children, we will give great weight to the trial judge's personal observations. *Id.*

An order forever terminating parental rights must be based upon clear and convincing evidence that the termination is in the best interests of the child, taking into consideration the likelihood that the child will be adopted and the potential harm caused by continuing contact with the parent. *See* Ark. Code Ann. § 9-27-341 (Supp. 2003). In addition to determining the best interests of the child, the court must find clear and convincing evidence that the circumstances exist that, according to the statute, justify terminating parental rights. *Id.* One such set of circumstances that may support the termination of parental rights is that the child

has been adjudicated by the court to be dependent-neglected and has continued out of the home for twelve months and that despite a meaningful effort by the department to rehabilitate the home and correct the conditions that caused removal, those conditions have not been remedied by the parent. *Id.*

Jones first argues that the trial court erred in its failure to make specific findings as to potential harm before terminating her parental rights. However, according to section 9-27-341 the court was only required to consider the potential harm to the health and safety of a child that might result from continued contact with the parent. The court was not required to find that actual harm would result or to affirmatively identify a potential harm. Furthermore, the supreme court has directed that the harm analysis be conducted in broad terms—encompassing the harm the child suffers from the lack of stability in a permanent home. *See Bearden v. Ark. Dep't of Human Servs.*, 344 Ark. 317, 42 S.W.3d 397 (2001). Finally, the court's potential-harm inquiry is but one of many factors that a trial court must consider in a best-interest analysis. *Id.*

Jones also argues that her parental rights should not be terminated because she made attempts to get her children back, including partial compliance with her case plan. However, a parent's rights may be terminated even though they are in partial compliance with the case plan. *Chase v. Ark. Dep't of Human Servs.*, 86 Ark. App. 237, 184 S.W.3d 453 (2004). Here, Jones admitted that she failed to attend counseling as she should have. She also admitted (and

did not challenge on appeal) her failure to pay child support. Finally, and most importantly, Jones conceded that she had failed to obtain and maintain stable housing for her children.

Accordingly, we hold that the trial court did not clearly err in granting the petition to terminate appellant's parental rights.

Affirmed.

HART and BAKER, JJ., agree.